

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re:

CATALANO, DOMENIC  
Debtor.

Bankruptcy Case No.: 08-60313-AER7

DOMENIC CATALANO,

Plaintiff,

A.P. No.: 08-6074-aer

v

CITIFINANCIAL, INC.

Defendant.

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VERIFIED COMPLAINT TO VALUE COLLATERAL

The Plaintiff above-named, respectfully allege as follows:

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157, and that the court has jurisdiction pursuant to 28 U.S.A. Sections 151, 157 and 1334.
2. This Complaint was filed, pursuant to 11 U.S.C. 506, and in accordance with Bankruptcy Rule 7001, to value his residence for the purpose of determining the secured status of the mortgage claim held by CITIFINANCIAL, INC.
3. The Plaintiff filed this bankruptcy case on February 5, 2008, seeking protection under Chapter 13 of Title 11 of the United States Code.
4. The Defendant Citifinancial, Inc. is a Maryland corporation with an office and principal place of business located at 300 St. Paul Place, Baltimore, MD 21202.
5. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. Section 157 and 1334 and 11 U.S.C. Section 547.
6. The Plaintiff owns real property located at 14204 Meadowbrook Court, Klamath Falls, OR 97601. The tax map or parcel ID No. is: R-3908-007DA-03300-000 being more particularly described as follows: Lot 27 in Block 3 of Tract 1046, Round Lake Estates, according to the Official Plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

7. Wells Fargo Bank, N.A., holds a first Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$72,473.99 according to the proof of claim filed in this case on February 12, 2008. This Deed of Trust was recorded June 30, 2005, in the Klamath County Registry of Deeds, being originally held by Gateway Financial Services and later transferred to Wells Fargo Bank, N.A.

8. Citifinancial, Inc., holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$10,906.63 according to the proof of claim filed in the debtor's bankruptcy case. This Deed of Trust was recorded on June 19, 2006 at M06-12485, Klamath County Registry of Deeds.

9. The fair market value of the said property is not greater than \$65,000.00 according to a recent market analysis by a local realtor.

10. Pursuant to 11 U.S.C. 506 of the Bankruptcy Code and *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the second mortgage loan with Citifinancial, Inc., secured by a second Deed of Trust against the Plaintiff's said property, is an unsecured claim.

11. In turn, pursuant to 11 U.S.C. 506(d), the lien securing said loan is void.

WHEREFORE, the Plaintiff prays the Court find that said claim held by Citifinancial, Inc., which is secured by a second Deed of Trust upon said property, to be wholly unsecured, and that said claim should therefore be classified an unsecured claim for the purpose of this Chapter 13 case. The Plaintiff further prays that the Court order Citifinancial, Inc., to cancel the said second Deed of Trust forthwith upon the completion of the Plaintiff's Chapter 13 plan and the granting of the Plaintiff's discharge, and that the Court grant such other and further relief as to the Court seems just and proper.

Dated: April 29, 2008.

/s/Karen M. Oakes  
Karen M. Oakes, OSB 98463

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I, Domenic Catalano, the Plaintiff in the above captioned case, hereby state, under penalty of perjury, that, to the best of my knowledge, that:

Wells Fargo Bank, N.A. holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$72,473.99, according to the proof of claim (1-1) filed in this case. This Deed of Trust was recorded June 30, 2005, in the Klamath County Registry of Deeds, being originally held by Gateway Financial Services and later transferred to Wells Fargo Bank, N.A.

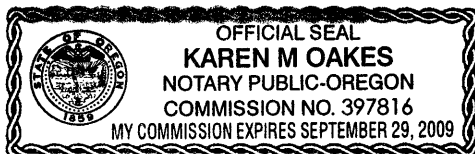
Citifinancial, Inc., holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$10,906.63. This Deed of Trust was recorded on June 19, 2006 at M06-12485, Klamath County Registry of Deeds.

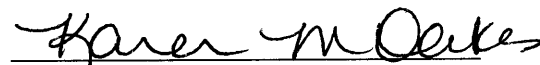
The fair market value of the said property is not greater than \$65,000.00 due to numerous issues with the floor, roof, and wiring. A realtor came and inspected and provided a market analysis of \$62,000 - \$65,000.00 for the 1983 Fleetwood and the lot.

Dated:

  
Domenic Catalano

Sworn to and subscribed to before me this 29<sup>th</sup> day of APRIL, 2008.



  
NOTARY PUBLIC for the State of  
Oregon  
My Commission expires: 9/29/09